

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

MOHAMMAD ANWAR

Plaintiff

V.

ABDUL RAHMAN AYOUBI

Defendant

C.A. No. 1:13cv1123 LMB/TKJ

DEFENDANT’S MOTION TO DISMISS UNDER RULES 12(b)(1) and 12(b)(6)
AND MOTION TO REQUIRE PLAINTIFF’S COMPLIANCE WITH RULE 10

NOW COMES the Defendant, by counsel, and states the following as and for his Motion to Dismiss Under Rule 12(b)(1) and 12(b)(6) and Motion to Require Plaintiff's Compliance with Rule 10:

1. Plaintiff's Complaint fails to properly plead damages in an amount which would provide this Court with subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a).
2. Plaintiff's Complaint fails to state a claim upon which relief can be granted for the following reasons:
 - a. Plaintiff's Complaint fails to properly state a cause of action for fraud.
 - b. Plaintiff's Complaint fails to properly state a cause of action for breach of fiduciary duty.
 - c. Plaintiff's Complaint has fails to properly plead facts which would support a claim for punitive damages.

d. Any claim for breach of fiduciary duty may be barred by the statute of limitations¹.

3. Plaintiff's Complaint violates Rule 10 of the Federal Rules of Civil Procedure by failing to set forth its claims in numbered paragraphs.

WHEREFORE, for the aforesaid reasons, your Defendant, by counsel, prays that this Honorable Court grant his Motion to Dismiss Plaintiff's Complaint, with prejudice, and alternatively, if Defendant's Motion to Dismiss is not granted, or is granted with leave to amend, your Defendant prays that Plaintiff be otherwise required to file a Complaint which complies with Rule 10 of the Federal Rules of Civil Procedure.

Respectfully Submitted,

ABDUL RAHMAN AYOUBI
By Counsel,

/s/ Marc A. Busman

/s/ Kevin S. Jaros

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Counsel for Defendant

¹As set forth in Defendant's brief, Plaintiff's failure to include any dates of Defendant's alleged wrongful actions frustrates a determination of whether the claim is barred by the applicable statute of limitations.

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of October, 2013, a true and correct copy of the foregoing was served upon counsel for the Plaintiff through this Court's ECF filing system.

/s/ Marc A. Busman

/s/ Kevin S. Jaros

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